IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3106 of 2007()

AGAINST THE ORDER IN CC 579/2000 IN
LPC.100/2004 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG

.....

PETITIONER: ACCUSED:

K.K. ABDULLA @ ABDHU,
S/O. ABDUL KHADER, MUKRI HOUSE, KOTTIKKULAM,
KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS: STATE:

THE STATION HOUSE OFFICER,
BAKEL POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3106 of 2007

Dated this the 9th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution under Sections 452 and 354 I.P.C. The petitioner was not enlarged on bail at the crime stage. He had not appeared before the court or the Investigating Officer. Investigation is now complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioner has not been able to appear so far. He is employed abroad. No notice or summons was ever served on the petitioner. The learned Magistrate has now transferred the case against the petitioner to the list of Long Pending Cases. Coercive processes are being issued against the petitioner. The petitioner finds such warrants of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful. The petitioner is now willing to appear and apply for bail and co-operate with the court for expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-